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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,999	10/21/2003	Timothy Garrett	898-0011457-US(PAR)	4861
2512	7590	06/10/2005	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			TSIDULKO, MARK	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 06/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/689,999

Applicant(s)

GARRETT, TIMOTHY

Examiner

Mark Tsidulko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The submission of amendment filed on 5/19/2005 is acknowledged. At this point claims 1, 8, 11 and 15 have been amended and the remaining claims left unchanged. Thus, claims 1-15 are at issue in the instant application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 6, 9, 12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciaccia (US 2005/0072057 in view of Howard (US 1,256,232) and Murdock (US 3,923,001).

Referring to Claim 1 Ciaccia discloses (Fig4) a flag illumination system including a fixture enclosure [56] mounted on an end of the flag pole [52], a light source mounted within the fixture enclosure, so that the light source is located at the end of pole and above the flag and a light sensitive element [68]. A light from the light source is angled down to illuminate a region where the flag hangs below the end of the pole, and wherein, the fixture enclosure directs light illuminating substantially only the flag.

Ciaccia discloses the instant claimed invention except for first and second interchangeable sections and a light sensitive device mounted on the interchangeable section.

Howard discloses (Figs.1, 3) a first interchangeable section [5] and a second interchangeable section [13].

Murdock discloses a flag pole having an interchangeable section (cover) [13] with a light sensitive device (photocell) [31].

Referring to Claims 2, 7, 9 Ciaccia discloses the instant claimed invention except for type of connection of the interchangeable section.

Howard discloses that the section may be connected in any known way (page 2, right col., lines 66-69).

Referring to Claim 3 Ciaccia discloses (Fig.4) a wire [58] for connection to the power source.

Referring to Claims 5, 12 it would have been an obvious matter of design choice to provide the different decorative shapes of the interchangeable section for purpose of aesthetic appearance only, without changing the functionality of the device.

Referring to Claim 6 Ciaccia discloses (Fig.4) the enclosure having a shoulder (not indicated by number) a feature which can be use for supporting the interchangeable section.

Referring to Claim 8 Ciaccia discloses (Fig4) a flag illumination system including a fixture enclosure [56] mounted on an end of the flag pole [52], a light source mounted within the fixture enclosure, so that the light source is located at the end of pole and above the flag. A light from the light source is angled down to illuminate a region where the flag hangs below the end of the pole, and wherein, the fixture enclosure directs light illuminating substantially only the flag.

Ciaccia discloses the instant claimed invention except for first and second interchangeable sections and a light sensitive device mounted on the interchangeable section.

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Howard discloses (Figs.1, 3) a first interchangeable section [5] and a second interchangeable section [13].

Since Ciaccia does not show a permanent joint between the system and the pole, it is understood that any detachable connection (screw joint for example) may be used for attachment in order to obtain using the system with different poles.

Referring to Claim 14 Ciaccia discloses (Fig4) a light fixture enclosure directs light at an incline relative to the pole.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the light sensitive device, as taught by Murdock, mounted on the interchangeable section, for the device of Ciaccia, in order to illuminate the flag at the dark ambient light condition.

Claims 4, 10, 11, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ciaccia, Howard and Murdock as applied to claim 3 above, and further in view of Zemar (US 6,764,197).

Referring to Claims 4, 10 Ciaccia et al. disclose the instant claimed invention except for a solar cell and a battery.

Zemar discloses a lighting device for illuminating ornamental display, including flags (col.1, lines 9-12) having a light sensitive device (Abstract, claim 10) which includes solar cell and a battery. Using of this device allow to automate switching of the light source.

Referring to Claim 11 Ciaccia discloses the instant claimed invention except for timer.

Zemar discloses a timer-controlled On/Off switch to automatically use the device at a dark time (col.4, lines 53-56).

Referring to Claim 13; since Ciaccia discloses a light sensitive element (Fig.4, [68]) that allows the flag to be lit at all times when there is not sufficient light (i.e. ambient light) to shine on the flag, it is well known in the art of illumination, that this type of sensor always has a disconnect in order to disconnect the electrical circuit when a quantity of the ambient light is enough to illuminate the flag.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the solar cell and a battery, as taught by Zemar, for the device of Ciaccia et al., in order to automate switching of the light source.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ciaccia, Howard, Murdock and Zemar. These references in a combination disclose structure of the device but do not disclose a method for illuminating a flag. It would have been obvious to one having ordinary skill in the art, at the time the invention was made to take the steps of apparatus above and provide a method for illuminating a flag since a prior art of record teaches or suggests a means for illuminating a flag:

- providing an enclosure to be mounted on the flag pole;
- providing a light source mounted within the enclosure;
- providing a first section removably mounted to the enclosure;
- providing a light sensitive device removably mounted on the first section;
- providing an electrical disconnect;

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- providing a second removable section;
- selectably mounting the first section or the second section on the enclosure.

Response to Arguments

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M.T.
June 2, 2005



JOHN ANTHONY WARD
PRIMARY EXAMINER